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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,597	01/04/2002	Neal W. Luginbill	HRA-12807	6360

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EXAMINER

CHIANG, JACK

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037597

Applicant(s)

Luginbill et al.

Examiner

J. Chang

Group Art Unit

2642

#5

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 1-4-02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-14 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-14 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

CLAIMS

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Wakefield (US 5745565).

Regarding claim 1, Wakefield shows a phone holder comprising:

An outer member (2, 10) that is secured to a support (44);

An inner member (60, see fig. 5) that is slidably received and secured to the outer member (2, 10);

The outer member (2, 10) is adapted to receive a phone having a first size (col. 2, lines 42-46) when the inner member is removed;

The inner member (60) is adapted to receive a phone having a second size (fig. 5).

Regarding claim 7, Wakefield shows a phone holder assembly comprising:

A penal assembly (44);

An outer member (2, 10) that is secured to the penal assembly (44);

An inner member (60, see fig. 5) that is slidably received and secured to the outer member (2, 10);

The outer member (2, 10) is adapted to receive a phone having a first size (col. 2, lines 42-46) when the inner member is removed;

The inner member (60) is adapted to receive a phone having a second size (fig. 5).

Regarding claims 2, 8-9, Wakefield shows:

A front wall (i.e. features of 22 on both members) having an elongated opening (124) through with a front of the phone is visible; and

Tabs (48 on both side of 4) for mounting.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4, 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakefield in view of Klammer et al (US 6263080).

Regarding claims 3 and 10, Wakefield shows the inner and outer members (see comments in claim 1).

Wakefield differs from the claimed invention in that it does not show an opening on the bottom wall.

However, Klammer teaches providing an opening on the bottom wall (see 7).

Hence, it would have been obvious for one of ordinary skill in the art to modify Wakefield with an opening on the bottom wall as taught by Klammer, such modification would enable the passage of a cable as it is commonly done in phone holders (col. 4, lines 39-40 in Klammer).

Regarding claims 4, 11, the combination of Wakefield and Klammer shows:
Extending ears (64 in Wakefield).

5. Claims 5-6, 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Wakefield and Klammer in view of Osborn (US 6543637).

Regarding claims 5 and 12, the combination of Wakefield and Klammer shows the inner and outer members (see comments in claim 1 above).

Wakefield differs from the claimed invention in that ribs and slots on the inner and outer members respectively.

However, Osborn teaches providing ribs and slots (54, 56) and slots (30, 26, 28) for mounting the inner and outer members (14, 12).

Hence, the concept of mounting the inner and outer members together is well taught by both Wakefield and Osborn. It would have been obvious for one of ordinary skill in the art to modify Wakefield with ribs and slots as taught by Osborn, such that to reinforce or to enhance the flexibility of the holding of the two members (col. 2, lines 35-38 in Osborn).

Regarding claims 6 and 13, the combination of Wakefield, Klammer and Osborn shows:
Rims for both the inner and outer members (42, 63 in Osborn).

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over
Wakefield in view of Susko et al. (US 5996866).

Regarding claim 14, Wakefield shows the phone holder.

Wakefield differs from the claimed invention in that it does not show a closed and open position.

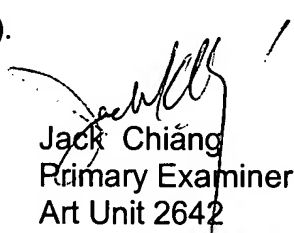
However, Susko teaches providing a phone holder which can be moved between a closed and a open position (see fig. 3), and the holder (members) is generally vertical in the closed position.

Hence, the concept of providing a phone holder in the vehicle environment is well taught by both Wakefield and Susko, therefore, it would have been obvious for one of ordinary skill in the art to apply the Wakefield's holder in Susko's mounting environment, this simply can be considered as an intended use of Wakefield in a different mounting, and can be considered as a variation of Wakefield as long as the basic concept of holding the phone, and mounting the phone on the vehicle environment, is substantially unchanged.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack Chiang
Primary Examiner
Art Unit 2642